

1 STATE OF NEW JERSEY  
2 DEPARTMENT OF COMMUNITY AFFAIRS

3 \_\_\_\_\_  
4 :  
5 PRIVACY STUDY COMMISSION HEARING :  
6 :  
7 \_\_\_\_\_:

8 MONTCLAIR STATE UNIVERSITY  
9 Upper Montclair, NJ 07043  
10 Tuesday, June 17, 2003  
11 4:10 p.m. - 7:00 p.m.

12

13 B E F O R E:

14 GRAYSON BARBER  
15 GEORGE CEVASCO  
16 ROSEMARY KARCHER-REAVEY, Chairwoman  
17 KAREN SUTCLIFFE  
18 H. LAWRENCE WILSON, JR.

19

20

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1                   CHAIRWOMAN KARCHER-REAVEY: Good  
2 evening. We're making a record and transcript  
3 of the hearings, because we're hoping to bring  
4 this information back to the Commission on  
5 Privacy Study. And I guess it would be  
6 available if anyone would like one to have it  
7 because we're hosting these public hearings on  
8 behalf of the Privacy Study Commission.

9                   Can everybody hear me? This isn't  
10 a very good thing. This isn't working. My  
11 name is Rosemary Karcher-Reavey. I'm the chair  
12 of the Subcommittee, and various members of the  
13 subcommittee are here as well, in addition to  
14 some people who aren't on the subcommittee who  
15 are on the Commission. And we're all very  
16 anxious and interested. And I think the  
17 purpose of the Commission, as we have had  
18 several meetings as the month has gone on, and  
19 the real purpose of the Commission is to try to  
20 strike a balance between the recognized need  
21 for openness in government and concerns for  
22 personal privacy and security.

23                   The public hearings that we've had  
24       before this, and we're probably going to have  
25       some in the fall, is hosted by this public

4

1       interest subcommittee of the Commission. And  
2       we were created under the Open Public Records  
3       Act. And nine of us were appointed by the  
4       Governor, four were appointed by the  
5       Legislature. So we really have a mix, as far  
6       as the Commission itself is concerned. And we  
7       have several subcommittees that Catherine  
8       Starghill is going to tell us more about in her  
9       presentation.

10                  What we're inviting you to do as a  
11       member of the public in this hearing is to  
12       comment on the privacy issues raised by the  
13       collection, processing, use and dissemination  
14       of information by public agents. There is a  
15       brief statement of issues and several questions  
16       for the public to consider in making your  
17       comments that are located just outside the door  
18       of the Ballroom. There's also an overview  
19       presentation of the New Jersey Privacy Study  
20       Commission and that is available outside the  
21       building. We only ask, if you can, that you

22 limit your comments to five minutes. Now,  
23 there's not an awful lot of you sitting here in  
24 the audience, so probably we can extend that.  
25 But we do want an opportunity for everybody to

5

1 be heard. If an individual is representing an  
2 organization, we kind of like to know that too,  
3 so we know where you're coming from.  
4 Representatives of organizations with prepared  
5 statements can provide copies either to  
6 Catherine, who is seated right here in the  
7 front of the audience, or to me, and we'll  
8 accept them happily. You can also send them to  
9 the Commission. I'm sure Catherine is going to  
10 give you the e-mail and I'm sure that will be  
11 included in the information in the hallway out  
12 there.

13 We're going to have first a brief  
14 presentation by Catherine, giving an overview  
15 of the New Jersey Privacy Study Commission, and  
16 she's part of the Department of Community  
17 Affairs. And we have a slide presentation  
18 that, as I said, is quite brief. But our real  
19 interest and concern is how you think you can

20 strike a balance between the need for openness  
21 and the right to privacy. And very important,  
22 initially, are what we're going to do with  
23 names and addresses and whether public agencies  
24 should make them available, in a general  
25 statement. Catherine.

6

1 MS. STARGHILL: Can everyone hear  
2 me? I choose not to use a microphone. Great.  
3 My name is Catherine Starghill. I  
4 work for the Department of Community Affairs.  
5 I'm the person staffing the Privacy Study  
6 Commission and helping them as they progress in  
7 their study of privacy issues, personal  
8 information in government records. This  
9 presentation is just a brief overview of the  
10 purpose of the Privacy Study Commission.  
11 The Commission, as Judge Reavey  
12 mentioned, was created under the Open Public  
13 Records Act cited in NJSA 47:1A-1 et seq and  
14 the provisions following. As many of you may  
15 or may not know, OPRA, as the Open Public  
16 Records Act is commonly referred to, defines  
17 the State's policy that government records  
18 should be accessible for public inspection,

19 examination and copying, with limited or  
20 certain exceptions. And those limitations on  
21 the public's right to this access must be  
22 decided in the public's favor. However, the  
23 requirement that public agencies, keep a  
24 citizen's personal information from public  
25 access, when that access would violate a

7

1 citizen's reasonable right or expectation of  
2 privacy.

3           The Commission, again, as Judge  
4 Reavey mentioned, was established as a  
5 temporary body of 13 members. Nine of the  
6 Commission members were appointed by the  
7 Governor and four were appointed by the  
8 legislature. This schematic of appointments  
9 was designed to provide a balance of advocacy  
10 for privacy issues or interests, as well as  
11 advocates for increased access to government  
12 and government records.

13           We felt it was important to provide  
14 the public with some general background  
15 information of all of the Commission members,  
16 and we've done that in this presentation. Our

17 chairman, who was unable to attend this public  
18 hearing but has been at the last two, is Larry  
19 Litwin is a Professor of Public Relations and  
20 Advertising at Rowan University. Rosemarie  
21 Reavey, former Superior Court Judge in  
22 Middlesex County, is, of course, overseeing  
23 this public hearing and is chairman of the  
24 Public Interest Subcommittee. George Cevasco,  
25 also seated at the head table, is a Municipal

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1 Clerk for the Township of Brick. Thomas  
2 Cafferty, who is not present at this hearing  
3 just yet, is General Counsel of the New Jersey  
4 Press Association. Jack McEntee is a Detective  
5 with the Newark Police Department. Richard  
6 DeAngelis, Jr. is the attorney specializing in  
7 legislative and regulatory affairs. Pamela  
8 McCauley, who may appear later, is Director of  
9 the Office of Victim-Witness Advocacy in the  
10 Essex County Prosecutor's Office. Grayson  
11 Barber, who is seated at the head table, is an  
12 attorney specializing in privacy rights  
13 advocacy. H. Lawrence Wilson, Jr., who is also  
14 seated at our head table, is a retired Sergeant  
15 of Investigators in the Ocean County



16 Prosecutor's Office. Karen Sutcliffe, who may  
17 appear shortly, is an attorney specializing in  
18 municipal law. And John Hutchison is the  
19 Research Director of the Senate Republican  
20 Office.

21               So, as you can see, there is a  
22 great mix of advocates both for privacy  
23 interests, as well as access to government.  
24 The last two Commissioner members are Edithe  
25 Fulton, President of the New Jersey Education

9

1 Association; as well as William Kearns, who is  
2 General Counsel of the New Jersey League of  
3 Municipalities.

4               The Commission has been  
5 legislatively mandated in OPRA to study the  
6 privacy issues raised by the collection, use,  
7 processing and dissemination of information by  
8 public agencies. Or practically speaking, as  
9 Judge Reavey mentioned, the Commission really  
10 has to work to strike a balance between the  
11 need for openness in government and concerns  
12 for privacy issues or personal privacy and  
13 security. And OPRA does not -- the concern of

14 the legislature is that OPRA may not adequately  
15 strike that balance presently. But the study  
16 that this Commission was going to take an  
17 extensive time to really research those issues  
18 so that, perhaps, additions to OPRA or  
19 something to supplement OPRA regulations, what  
20 have you, even additional legislation if the  
21 Commission deemed appropriate, could be  
22 recommended and perhaps implemented.

23 Some of the privacy issues that are  
24 arising throughout the study include these  
25 three: What are the privacy issues raised by

10

1 the way government agencies collect, process,  
2 use and disseminate information? That, in and  
3 of itself, has been quite a task to really nail  
4 down exactly what all of the public agencies  
5 are doing out there. How is openness in  
6 government affected by privacy issues? As well  
7 as, how should we deal with these issues to  
8 safeguard the privacy rights of individuals?

9 It's quite a daunting task that the  
10 Commission has been very busy addressing. And  
11 in an effort to coordinate its efforts, the  
12 Commission has established several

13 subcommittees, those being, of course, the  
14 Public Interest Subcommittee is hosting these  
15 public hearings. The Subcommittee on Data  
16 Practices in New Jersey, Data Practices in  
17 Other Jurisdictions, Commercial Use and  
18 Technology.

19               The Public Interest Subcommittee  
20 will consider the views of public as  
21 individuals and groups representing various  
22 interests on the issues of how and where to  
23 strike the balance between openness and  
24 privacy. And again, this Subcommittee is  
25 hosting the public hearings throughout the

11

1 State.

2               The Subcommittee on Data Practices  
3 in New Jersey is working to develop an  
4 understanding of the types of personal data  
5 collected by public agencies in New Jersey,  
6 which has been interesting. That Subcommittee  
7 has been considering the methods used to  
8 collect the data; assess the data's current and  
9 potential use, which is a critical point or  
10 aspect of the study; and as well as,

11       contemplate the views of public administrators  
12       on data management.

13               The Subcommittee on Data Practices  
14       in Other Jurisdictions is working to learn the  
15       strategies employed by other governments to  
16       safeguard the privacy rights of citizens. And  
17       that Subcommittee has benchmark protection of  
18       personal privacy protection in several states,  
19       including California, Connecticut, Hawaii,  
20       Florida and Illinois, as well as the  
21       Subcommittee benchmarking the Federal -- U.S.  
22       Federal and European Unions approaches to  
23       protecting personal information of government  
24       records.

25               The Subcommittee on Commercial Use

12

1       will identify and consider the commercial uses  
2       of government information, both positive and  
3       negative. A lot of times, we only think about  
4       what happens with the negative users. With the  
5       rise of identity theft, that's perhaps the  
6       first type of user we consider when reviewing  
7       or thinking of the issue of privacy of personal  
8       information of government records. But there  
9       are positive users, as well. Credit writing

10 agencies, as well as employers, that do checks  
11 to safeguard their customers when they are  
12 hiring employees.

13 The Subcommittee on Technology is  
14 working to examine how technology facilitates  
15 the collection of data, as well as examining  
16 how it can be manipulated within government,  
17 and how it is used when made available to the  
18 public, as well as -- and this is also a  
19 critical aspect of examining the effect on  
20 government data when it is combined with data  
21 from other sources. That's commonly referred  
22 to as data mining. And there is a lot of  
23 companies that make that -- are in the business  
24 of data mining to produce and sell public  
25 information back to government entities, as

13

1 well as to private organizations.

2 Governor McGreevey gave the  
3 Subcommittee an additional mandate in his  
4 Executive Order 26. And that mandate was to  
5 study the issue of whether, and to what extent,  
6 the home address and home telephone number of  
7 citizens should be made publicly available by

8 public agencies. And there is a separate  
9 subcommittee that was established to address  
10 this special directive.

11 When the Commission has concluded  
12 its research, it will recommend specific  
13 measures to the Governor and the legislature.  
14 And those recommendations may include  
15 legislation, if the Commission deemed  
16 appropriate. And hopefully, at the end of its  
17 study, it would have better safeguarded privacy  
18 rights of New Jersey citizens.

19 We have now listed the meeting  
20 schedule of the Commission. All of the  
21 commission meetings are open to the public  
22 under the Open Public Meetings Act. The time  
23 of the meeting is actually 10:30. They are all  
24 held at the Department of Community Affairs in  
25 Trenton, New Jersey, at 01 South Broad Street.

14

1 That's the corner of Broad and Front Street.  
2 And again, all of those meetings are open to  
3 the public. It seems like this is slightly  
4 outdated as of today. This lists all of the  
5 public hearings that we've had, our initial  
6 public hearings. There will be more.

7                   And the contact information for the  
8                   Commission. That is not very easy to see. The  
9                   e-mail address is [privacy@dca.state.nj.us](mailto:privacy@dca.state.nj.us). And  
10                  the website that is live and on the internet as  
11                  of yesterday, is [www.nj.gov/privacy](http://www.nj.gov/privacy). And while  
12                  this is on the screen, the handouts of this  
13                  presentation are available on the table outside  
14                  of the room. And I'll have some cards  
15                  available on the head table, if anyone wants to  
16                  contact a live person. You are definitely  
17                  welcome to contact me and get any inquiries or  
18                  concerns to the Commission.

19                         Thank you.

20                         MS. KARCHER-REAVEY: Thank you,  
21                         Catherine.

22                         If anyone else has come in, they  
23                         are going to fill out a speaker sign-in.  
24                         Catherine, would you take a look and see if  
25                         anyone else has them and collect them for us.

15

1                   As I said, I think I said, the purpose of the  
2                   public hearings is to collect information. We  
3                   truly want to be a neutral forum where we hope  
4                   and expect the public to give the Commission or

5       this Subcommittee some insight as to what their  
6       concerns are. The concerns are an example of  
7       how to express, as I have indicated, with the  
8       names and telephone numbers and home addresses,  
9       although the variety of citizens, some  
10      licensed, not licensed, all concerned. So we  
11      hope to hear from those who use the information  
12      available from public records who are concerned  
13      about misuse of any of those records. Anybody  
14      like that is welcome to come to the microphone.

15               As I said, you don't have to give  
16      us your address or telephone number, but I  
17      think it would be helpful because the  
18      Commission and the Department would like to  
19      keep you informed as to what is happening and  
20      what's going on, and additional public  
21      hearings. I think that covered everything.

22               I just ask again, to try to limit  
23      your comments to five minutes, if you can. Two  
24      people were the first to fill out the forms. I  
25      think it's only fair we hear from them first.

16

1       The first one would be Gary McLean.

2               MR. McLEAN: Gary McLean. I'm here  
3       on behalf of the New Jersey Land Title



4 Association. And I have provided a written  
5 submission to the Commission, so you'll  
6 probably get me out of here in less than five  
7 minutes, because that pretty much says it  
8 there.

9 The New Jersey Land Title  
10 Association essentially represents the  
11 interests of those in the field of evidencing  
12 title to real property and insuring their  
13 interests. And then the organization is to  
14 object -- primary objective is maintaining the  
15 integrity of the real estate -- real property  
16 recording system and preownership of real  
17 estate.

18 The concern of the New Jersey Land  
19 Title Association would be in the area of  
20 possible further restrictions on that type of  
21 information. And the reason being is that the  
22 names, addresses, owners of property,  
23 judgements and liens, and that type of  
24 information is very important in determining  
25 who owns a piece of property, who has an

1 interest in a piece of property. And when one

2 is trying to determine, for example, in a  
3 foreclosure action or any real estate  
4 transaction, in determining what properties  
5 need notice and which properties have an  
6 interest, all of that information can be very  
7 helpful, particularly, in determining the  
8 owners or people of interest in property that  
9 has been abandoned for some time. I think it  
10 is Mr. Cevalco who was -- were you the  
11 municipality clerk? You've probably seen  
12 situations where there are lost in the town  
13 where that is difficult to find out who owns  
14 that lot. And the type of information that is  
15 in a land record will allow title search or  
16 someone else to try to find the people that  
17 need to be notified. Restrictions on that type  
18 of information makes it difficult to certify  
19 who owns the property, who has an interest in  
20 it, and who results in making it more difficult  
21 for a title insurer to insure the property and  
22 make a decision as to whether or not to insure  
23 the property, and ultimately if the information  
24 available restricted could raise the rates of  
25 the title insurance. Which then would increase

1 closing costs and contrary with what the  
2 federal government is trying to do right now,  
3 that is to bring the costs down.

4 And that's really the thrust of our  
5 position at this time asset forward in the  
6 written submission by the Title Association.  
7 And again, we're concerned about restrictions  
8 and access to records regarding the real  
9 property, and to names, judgments that effect  
10 real property.

11 MS. KARCHER-REAVEY: You are  
12 satisfied with the situation as it now exists  
13 with OPRA?

14 MR. McLEAN: I'm unaware of any  
15 particular problems or situations that now  
16 exist. We're concerned with specifically names  
17 and addresses and things like that. As one  
18 starts to redact addresses or Social Security  
19 Numbers from land records, that again makes it  
20 difficult to determine who you're dealing with.  
21 I don't know if you've ever sat at a closing  
22 with someone who has a very common name.

23 MS. KARCHER-REAVEY: I have.

24 MR. McLEAN: My best friend's name  
25 is Bill Taylor. When he went to buy a house,

1       he had a stack of things he had to sign off  
2       about a foot and a half high.  Imagine if  
3       Social Security Numbers and names and addresses  
4       were not available, how many more documents he  
5       may have had to deal with.  That's it.

6                     Thank you.

7                     MS. KARCHER-REAVEY:  Does anybody  
8       on the Subcommittee have any questions?

9                     MS. BARBER:  Thank you very much  
10      for coming.  I certainly appreciate your  
11      testimony.

12                    Outside of real property concerns,  
13      but you have a sentence in your letter, which  
14      is great to have, by the way, to the  
15      restrictions on access to government records  
16      would very likely have an adverse economic  
17      impact upon the public at large.

18                    Does your concern extend beyond  
19      real property?  If there are restrictions on  
20      home addresses for fishing licenses, say, or  
21      dog licenses, or restrictions on e-mail  
22      addresses that are given to a township for some  
23      purpose.  Do you see an economic impact beyond  
24      the scope of real property concerns?

25                    MR. McLEAN:  I'm not -- I haven't

1 specifically thought about that very much.  
2 Again, from the perspective of the Title  
3 Association, people search to find people in  
4 terms of dealing with property. Any area where  
5 you are restricting access to information, can  
6 make that search more difficult. And so, but  
7 my thoughts in drafting this submission would  
8 be more geared towards the real estate  
9 documents and documents dealing with real  
10 property.

11 MS. KARCHER-REAVEY: And you obtain  
12 them from the County. That's a government  
13 agency you're involved with.

14 MR. McLEAN: The County Clerk's  
15 Office primarily, but there are places you have  
16 to go for those types of documents. One of the  
17 areas not regulated by OPRA would be the  
18 Surrogate's Office. That's part of the  
19 judiciary. But death certificates in other  
20 states -- but general. There are many types of  
21 documents one could seek when one is trying to  
22 determine who owns a piece of property, and  
23 many of them are at the hands of the  
24 government.

25 MS. KARCHER-REAVEY: Thank you very

1       much. And if you want to add anything to your  
2       comments, feel free to come back to the  
3       microphone.

4                   MR. McLEAN: Thank you very much.

5                   MS. KARCHER-REAVEY: The next  
6       person who filled something out was David  
7       Roberts. And once again, you do not have to  
8       give your telephone number and your address, if  
9       you so choose.

10                  MR. ROBERTS: I have a ten minute  
11       dissertation, so if you will allow me the extra  
12       five minutes, I'd be obliged. My name is David  
13       Roberts. I live at 200 Gregory Place, West  
14       Orange, New Jersey 07052. I'm a Fellow of the  
15       Institute of Professional Investigators. I'm  
16       also a Certified Security Consultant on a  
17       national basis.

18                  First and foremost, I would advise  
19       that despite my accent, I am a proud American  
20       citizen. And having visited most countries in  
21       the world, I can opinion, without reservation  
22       or equivocation, and despite its peculiarities,  
23       foibles and nuances, there is no greater  
24       country in which to reside. I mean that with

25 all sincerity.

22

1 Secondly, I am a former military  
2 police officer, having commenced my services on  
3 the streets of Belfast in 1969, and thereafter  
4 engaged a career in the British Police force,  
5 and finally serving as a supervisory officer of  
6 Royalty and Diplomatic Protection Department of  
7 the Metropolitan Police of New Scotland Yard in  
8 London.

9 Having provided such services to  
10 the British Royal Family, British Government  
11 and visiting foreign diplomats and like  
12 dignitaries to the United Kingdom. In 1992, I  
13 was sponsored to attend and work in the United  
14 States by a high profile U.S. citizen and  
15 native of New Jersey, for whose benefit I  
16 provided her with specialist, protective and  
17 like services.

18 Appreciating that to effectively  
19 challenge all of my professional attributes in  
20 this world, I would need to acquire a  
21 recognized license to so perform, I made  
22 application to and through the controlling and

23       overseeing body of the New Jersey State Police.  
24       And following that lengthy, thorough, searching  
25       and all-encompassing background investigation,

23

1       I was granted the privilege of a license to  
2       facilitate my ability to operate and portray  
3       myself as a professional investigator in this  
4       state.

5               During this process, I was somewhat  
6       surprised to learn that the private  
7       investigator's industry is governed and  
8       controlled by the most senior law enforcement  
9       authority in the state. You may or may not be  
10      aware that such licensing requirements seldom  
11      exist outside the United States, thus, the  
12      exercise of such a level of control, authority  
13      and strict dominion, and associated  
14      ever-present scrutiny, over a commercial  
15      profession, by a law enforcement agency is  
16      nowhere as exclusive and rigorous as it is  
17      here.

18             I was also surprised that such an  
19      industry with the rapid advent of technology  
20      was controlled by a piece of state legislation  
21      that was incepted in the depression of 30's,



22       and at a time when but few citizens had a  
23       private motor, vehicle or telephone, or car, or  
24       telephone, and even less, a television.  
25       Computers were the pipe dreams of governments

24

1       yet to come, and the mobile telephone  
2       considered the figment of a very furtive  
3       imagination of those souls besotted by the  
4       incredulous surrealism of science fiction. And  
5       yet they're here now.

6               I was even more surprised to learn  
7       that, somewhat like the Constitution of the  
8       United States, very few amendments to that  
9       legislation have ever been incepted and  
10       certainly no account whatsoever has been  
11       accorded to the vast global technological  
12       modernization that has since taken place. And  
13       unlike the Constitution, however, the New  
14       Jersey Private Detectives Act was not penned by  
15       individuals bestowed with the attributes of  
16       prophetic foresight. Hence, the New Jersey Act  
17       is substantially flawed, but by virtue of the  
18       fact that such legislation was considered  
19       necessary, and currently exists, should imply

20 industry credence above and beyond the norm, I  
21 would suggest.

22 In a situation I personally  
23 perceive to be a lame effort to retrospectively  
24 deal with the imbalance we have created for  
25 ourselves, it has become popular the world

25

1 over, but especially here in the United States,  
2 to leap onto the "Privacy Frenzy" bandwagon and  
3 beat the proverbial drum whilst adopting  
4 well-intentioned, but otherwise misplaced and  
5 at its words, ill-conceived privacy  
6 legislation.

7 The end result of this situation is  
8 that unwittingly or otherwise, substantial  
9 amounts of chapters have been appended to the  
10 voluminous charter known in the law enforcement  
11 and like legal communities as the "Criminal's  
12 Get Out of Jail Free Manual." At this current  
13 time, more effort is being expended in seeking  
14 to right the wrongs occasioned in the epiphany  
15 of creating privacy legislative nightmares,  
16 when in reality, a modicum of forethought and  
17 discussion with those most directly affected,  
18 in advance of adopting such legislation, would

19 have prevented the debacle that now prevails.  
20 I would venture to suggest, and be prepared to  
21 stand corrected, that not one member of the  
22 committee is or has been licensed as a private  
23 investigator in this state, yet your decision  
24 in this specific regard will affect a viable  
25 and essential industry in particular, and the

26

1 general public at large, regardless of what  
2 that decision ultimately is.  
3 I would respectfully request that  
4 the Committee members pose a rhetorical  
5 question of themselves and determine whether  
6 they, in their individual professional  
7 capacities, have qualified for state licensing  
8 above and beyond that of acquiring the  
9 privileges associated with a state driving  
10 license. Honing that question further, are the  
11 Committee members familiar with any other piece  
12 of outdated, controlling and scrutinizing  
13 legislation that insists on formal police  
14 training to a quantifiable, attestable and  
15 verifiable degree, or in the alternative, and  
16 absent a prior police career, 10,000 hours of

17 supervised and recordable training to  
18 facilitate an individual's ability to hold such  
19 a professional license in this state.

20 I would further request of the  
21 Committee whether they identify, in those of my  
22 colleagues who have been sufficiently troubled  
23 by this "privacy-rush-to-legislate" scenario,  
24 and thereby, sufficiently motivated to appear  
25 before you, a stereotypical "gumshoe" of TV

27

1 characterization? Do you envision that I spend  
2 my time clandestinely disposed hiding in a bush  
3 with a camera with the intent of compromising  
4 the privacy of an individual involved in some  
5 marital indiscretion? If the answer to that  
6 question is yes, then indeed we as an industry  
7 have a very long path to travers before we  
8 enlighten you to the actuality and realism of  
9 our professional attributes and remit.

10 As an example, I find it probably  
11 best to give examples so that people can relate  
12 to this, if you will bear with me. A year ago  
13 I was contacted by a father, a resident of  
14 Rumson here in New Jersey. His 21-year-old  
15 daughter left home and had commenced a

16 relationship with a male who, although  
17 originating from New Jersey, was then situated  
18 at an unknown location in Italy. The male  
19 concerned was substantially older than his  
20 daughter. And even though doing his best to  
21 see the world through his young daughter's  
22 eyes, he was deeply concerned at the level of  
23 emotional manipulation the male was exercising  
24 over her, and understandably so. His concerns  
25 were heightened in the extreme when the male

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1 sought to involve him in a financial scheme  
2 whereby he would be obligated to commit the sum  
3 of \$150,000 to secure fantastically  
4 unfathomable financial benefits, from which he  
5 and his daughter would allegedly benefit.

6 He had approached the police. And  
7 being an entity that can ill afford any  
8 application other than strict objectivity in  
9 the performance of their duties, they were  
10 unable to help. In approaching a private  
11 investigator, the gentleman was securing for  
12 himself a guaranteed level of unique  
13 subjectivity from a qualified and presumed

14 competent source, that also provided the luxury  
15 of exclusive focus to his client's individual  
16 objectives. Having accessed credit header  
17 data, and by being delivered of the essential  
18 identification criteria known as a Social  
19 security Number, I was able to access the NCIC  
20 facilities for persons who are listed as being  
21 wanted on warrant. It was quickly established  
22 that the male concerned was wanted by the FBI,  
23 warrants having been issued in Florida and New  
24 Jersey for serious financial fraud crimes. And  
25 has reason for being located in Italy was

29

1 directly attributable to his desire to avoid  
2 apprehension and imprisonment. He had already  
3 been found guilty and sentenced in his absence.

4 The information was duly imparted  
5 to the Federal Authorities who responded by  
6 sending agents to Italy to arrest and extradite  
7 the miscreant. However, in having researched  
8 and provided the authorities with the correct  
9 address, they reverted to me to indicate that  
10 they could not find it, and have no idea what  
11 the letters "SC" referred to in that address  
12 meant. A phone call to my private investigator

13 counterpart in Italy, an individual subject to  
14 the Act, established that the initials "SC"  
15 stood for staircase. The male was arrested and  
16 is currently serving his time in a suitable  
17 U.S. federal accomodation.

18 This story is not unique. It is  
19 part and parcel of our daily life as licensed  
20 investigators in this state and across the  
21 globe. And I have every confidence that each  
22 and every licensed investigator you will  
23 confront will provide identical tales, whereby  
24 we, as an industry, have proved it of vital  
25 importance and assistance to the law

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1 enforcement agencies throughout the land and  
2 beyond.

3 My purpose for highlighting this  
4 particular case, however, is directly related  
5 to the purpose of this Committee. I can no  
6 longer secure access to that level of  
7 information. Access to wants and warrants is  
8 prohibited to me, in the aftermath of yet  
9 another privacy enactment decision. In  
10 reality, the curtailment of my investigative

11 abilities, from the perspective of the general  
12 public, you are here intent on protecting, is  
13 denuded to the point of incompleteness and  
14 commensurate inadequacy.

15 I would respectfully contend, that  
16 like my peers, I have earned and duly qualified  
17 myself as a licensed professional, able and  
18 capable of providing a valuable service to the  
19 general public. I am exposed to the most  
20 stringent legal controls and oversights,  
21 effectively above and beyond, and in addition  
22 to that which exists to control the actions of  
23 the law enforcement officials. Further, and in  
24 that one example quoted, I have proved that I  
25 can provide a level of service that the general

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1 public cannot legitimately or reasonably expect  
2 from their law enforcement agencies. Yet,  
3 despite all of this, those elected  
4 representatives of the general public are  
5 contemplating legislation that will effectively  
6 nail my feet to the floor, making it impossible  
7 to serve those members of the general public  
8 who truly need such assistance.

9 Members of the Committee, in



10 concluding, I would say this: Yes, create  
11 privacy legislation that protects your members  
12 of the general public from the potential of  
13 criminal and like privacy exploitation. I  
14 would exhort you to do so with an unprecedented  
15 vengeance. I assure you that you will find  
16 members of my profession and law enforcement  
17 agencies in full accord and support with your  
18 wisely considered and evaluated decisions.  
19 However, and in so doing, I would equally  
20 exhort you to consider the profession of the  
21 legally licensed private investigator industry  
22 here in New Jersey. Please recognize us for  
23 our collective worth in serving the legal,  
24 judicial, civil and criminal enforcement  
25 authorities in this state and the community at

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1 large. I would respectfully submit that both  
2 as individuals and as a professional body that  
3 we are more than qualified to be made the  
4 exception to any such constraints imposed on  
5 those whose purpose and intent is not as  
6 legally well founded in the recognized merit  
7 our industry truly deserves and is otherwise

8 surely entitled to.

9 Well, being not originally from  
10 this land, I am unsure of the protocol and  
11 procedure involved in the inception of such  
12 committees as we appear before today. However,  
13 as much as you are determined to protect the  
14 general public from the invasion of privacy by  
15 and from the unscrupulous, please seek to  
16 evolve a means whereby those with specialist  
17 knowledge and skill, far in excess of that  
18 which I profess to possess, and they do exist  
19 in abundance, can provide appropriate advice,  
20 guidance and professional opinion and counsel  
21 to your august body. Move to ensure that when  
22 the decision is made, it is with the best  
23 interests of every citizen of this great state  
24 firmly in mind. I would hope that there must  
25 exist within the Committee infrastructure,

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1 means whereby representatives of those likely  
2 to be effected by your eventual decision, can  
3 be involved in such an advisory or consultancy  
4 capacity. Common sense and logic demand it.  
5 If it does not exist, perhaps that should be a  
6 priority consideration and urgent motivation

7       for which local and state government should  
8       hold meetings for the immediate future.

9               Ladies and gentlemen, my final plea  
10       to you is this: You have the opportunity here  
11       to evolve a landmark decision, a decision that  
12       could be perceived as the veritable yardstick  
13       by which other states can only follow and be  
14       both grateful and humble in being provided a  
15       means of benefiting from the hard work that  
16       lies before you, and in respect of which, you  
17       are more than individually and collectively  
18       qualified so to do.

19              New Jersey licensed investigators  
20       are a legitimate, vital and intrinsic element  
21       of the New Jersey legal community. And in my  
22       respectful submission, are duly entitled to be  
23       granted the qualification of being rendered  
24       exempt from the curtailments you will impose  
25       against the criminally or otherwise illegally

1       biased. Your most senior state law enforcement  
2       authority is already charged with the  
3       responsibility of ensuring that our industry  
4       exponents comply fully with the laws of this

5 state; therefore, you should have more than  
6 sufficient confidence to know that you truly  
7 have no cause for any legitimate concern to the  
8 contrary. Thank you.

9 MS. KARCHER-REAVEY: We have heard  
10 from two people yesterday who are licensed  
11 private investigators which makes a big  
12 difference in the way we would view the  
13 situation. I see that you have got that all  
14 typed out. Would you mind giving it to her?

15 MR. ROBERTS: You mentioned in the  
16 information that you passed out that employers  
17 have a need. It's to undertake background  
18 checks on individuals to employ. You should  
19 know that employers engage the services of  
20 licensed private investigators for that  
21 purpose. And the laws that exist at the moment  
22 is so confusing, that those within government  
23 circles who we approach for what should be  
24 publicly available information, will err on the  
25 side of caution, not to expose themselves to

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1 risk or potential compromise of the new Act.  
2 They simply will not give that information  
3 away.

4 MS. KARCHER-REAVEY: And there are  
5 very significant penalties for violating the  
6 law, whatever it is.

7 MR. ROBERTS: We want to work with  
8 them, we need to.

9 MS. KARCHER-REAVEY: Anybody have  
10 any questions?

11 MS. BARBER: Thank you very much  
12 for coming, and thank you for your written  
13 submission. We certainly appreciate your point  
14 of view.

15 I have two questions to ask you.  
16 One involves the State of New Hampshire. The  
17 Supreme Court of the State of New Hampshire  
18 issued a decision about a month ago in a case  
19 that's known as the Amy Boyer (phonetic) case.  
20 The official title of the case is Remberg  
21 versus Docusearch (phonetic). What happened in  
22 that case is that a private investigator went  
23 to a data base company called Docusearch. And  
24 it wasn't a private investigator going to  
25 Docusearch, it was stalker going to Docusearch

1 and getting some information as a part of his

2 investigation, and obtained information about  
3 Amy Boyer, who he then murder. So the New  
4 Hampshire Supreme Court then issued an opinion  
5 saying that private investigators and database  
6 companies have a duty of care toward the people  
7 about whom they collect information.

8 So I am wondering first, whether  
9 you have any comments on that case generally.  
10 Second, whether you think that the State of New  
11 Jersey has a duty of care towards the people  
12 who are in its databases. So I would  
13 appreciate your take on the stalker situation  
14 and that problem generally.

15 MR. ROBERTS: The second part of  
16 the question, yes indeed. Of course New Jersey  
17 has an obligation to protect the citizens and  
18 the privacy of the information. I think you'll  
19 find the issue is to whom and from whom it  
20 should be protected.

21 With regards to the stalker case,  
22 yes, I'm aware of it. It relates to  
23 information that -- information brokerage. I  
24 doubt whether they actually have specific  
25 licensing and/or control by which every state

1 authority governs the issue of licensing. You  
2 will find that most investigators are equally  
3 maligned against the concept of information.  
4 The purpose of having a license here in New  
5 Jersey, despite the stringent controls  
6 regarding issuing, is that it allows one the  
7 ability to advertise, such as, to the general  
8 public. The fact that one doesn't have a  
9 license doesn't preclude one from acting as an  
10 investigator.

11 It is those people who are  
12 condemning the good name of my industry and  
13 those that I think you will find every other  
14 licensed private investigator, would stand up  
15 and join with you in castigating them.

16 MS. BARBER: Thank you.

17 My other question is about  
18 publication of home addresses on the internet.  
19 A couple of years ago, the Division of Consumer  
20 Affairs, in the Department of Law and Public  
21 Safety, published the addresses of record of  
22 all licensed professionals in New Jersey. Now,  
23 there are a lot of licensed professionals. As  
24 a lawyer, I'm licensed by the Supreme Court,  
25 but there are many other licenses that were

1 published in the Executive Branch, like,  
2 engineers, physicians, manicurists, people who  
3 cut hair. There's quit a range of licenses and  
4 I'm sure one of the licenses that falls within  
5 that purview is the licenses of private  
6 investigators, or as I think they're called  
7 right now, professional investigators.

8 So a couple of years ago, your  
9 address of record was published on the internet  
10 by the State. And if your address of record  
11 happens to be your home address, that meant  
12 that your home address was published on the  
13 internet on the State's website. Does that  
14 strike you as reasonable? Would you urge the  
15 State to continue that kind of practice, to  
16 make home addresses of people like yourself  
17 available generally, or do you think that there  
18 is some discretion to be exercised?

19 MR. ROBERTS: One has to be careful  
20 to avoid entry into the area of paranoia.  
21 Having said that, each entity you've mentioned  
22 has a professional license that is issued and  
23 controlled by a governing body. They have a  
24 function to perform in their own right. So to  
25 answer your question, I believe that no one's



1       home address should be a available for public  
2       scrutiny by all at large, other than to  
3       legitimately requiring individuals, and only  
4       then having proved their course through the  
5       governing body for that licensing of that  
6       particular licensed individual. So if it was  
7       an attorney, I would have to ask the  
8       investigator, show me cause why you would need  
9       your private address by going through that  
10      agency. However, you must remember that just  
11      because you're licensed as an attorney, that  
12      doesn't preclude him from securing information  
13      on you from other databases.

14               MS. BARBER: Thank you. What again  
15      was the statue that you nicknamed the Criminal  
16      Get Out of Jail Free Statute?

17               MR. ROBERTS: That's the one.  
18      That's the one that has been created, as I'm  
19      sure Mr. Wilson will confirm from his prior  
20      knowledge. One controlled.

21               MS. BARBER: What is the statute --

22               MR. ROBERTS: It's A made up one.  
23      It's a colloquial, police jargon. It's a way  
24      of, as I suppose, demonstrating those bodies  
25      that created the legislation, that do so

1       without any thought for the police officers and  
2       the man having to make it work.

3               MS. BARBER:  You weren't referring  
4       to the statute regulating professional  
5       investigators, were you?

6               MR. ROBERTS:  I'm referring to all  
7       manner of legislation that is involved.  A  
8       quick example which relates to a civil  
9       prospective, if I was a deadbeat Dad, and I had  
10      left you as the State responsible for paying  
11      for the upkeep of my three or four children and  
12      I was living "The Life of Reilly" in another  
13      state, I should entitled, as a private  
14      investigator, to assist the State in locating  
15      the whereabouts of this deadbeat Dad and  
16      bringing him back to answer to his obligations.  
17      Bear in mind, your contemplating issues of  
18      anticipating using benchmarks that are involved  
19      in other states.  I would throw them away.  You  
20      have the opportunity to create something brand  
21      new here that other states can follow.

22              As far as your hope is concerned,  
23      bear in mind again, thought they call it the  
24      United States of Europe, it is not the United

25 States of Europe. It is a series of different

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1 countries who have been clouded or banded into  
2 one organization they're now trying to  
3 legislate to make it appear united. There is  
4 not a licensing requirement for a private  
5 investigator in the United Kingdom. I can walk  
6 out of jail tomorrow, and the following day  
7 legitimately put an advert in the yellow pages  
8 that I am a security expert and investigator.  
9 There's nothing to stop me. That's where the  
10 system falls down. There is no control.

11 That's why Europe evolved the Data  
12 Protection Act of 1998, I believe it was. It  
13 finally came into effect in 2000. They have  
14 strict controls on how every level, every part  
15 of society, not just government, but  
16 individuals. That is how they control the  
17 investigations of agents.

18 MS. KARCHER-REAVEY: Thank you very  
19 much.

20 I think the next sign-in sheet I  
21 have is Joe Renna.

22 MR. RENNA: Joseph Renna, 202

23 Walnut Avenue in Cranford, New Jersey. I come  
24 across like Peter Sellers after that impressive  
25 presentation.

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1 My interest in the OPRA from the  
2 lecture at Kean University that Mark Pfeiffer  
3 gave, and I was hoping to speak for a couple of  
4 reasons. By a little bit of background, I am  
5 an employee of the County of Union as a Public  
6 Information Officer, Public Relations Board of  
7 Reynolds Hospital. HCFA comes into play with  
8 my profession also. I also publish newspapers.  
9 I publish as a journalist. And as someone who  
10 is seeking information, it has peaked my  
11 interest. And the third part or what got me to  
12 jump up here with two feet is I'm running for  
13 County Freeholder this year. So those three  
14 hats, at one time, information is my life.

15 I read about OPRA and went to the  
16 lecture. I thought it was a perfect  
17 opportunity for me to be on the ground floor of  
18 something I thought was really great. I  
19 started a few weeks ago requesting information  
20 from the County of Union, started regularly  
21 going to all the Freeholder meetings and trying

22 to find out as much as I can so that I know  
23 every issue that's going on. One of my  
24 criticisms of the County was its secretness  
25 that practiced, the very tough nut to crack.

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1 It's a 9-0 board of Democrats and who have been  
2 there a long time. And once I started  
3 requesting, through OPRA, the information,  
4 knowing that I realized it, but they realized  
5 that there was a lot of aspects of OPRA that I  
6 didn't know about. And I was trying to work  
7 with them to bring it forward. The form, It  
8 wasn't prepared correctly until my wife, Tina,  
9 who is my campaign manager, she's very involved  
10 also. And I felt that, if anything, to get out  
11 of this meeting, is if there is a flow of  
12 information that I can come from your  
13 organization to a private person. The reason  
14 why we're not getting so much cooperation from  
15 the County, just because of my situation  
16 running for office, so even some basic  
17 questions that they didn't really have to  
18 answer. They really don't answer. But there  
19 was -- I find there was a safety net for me.

20       Where would I go if they said we didn't --  
21       we're going through the process and burdening a  
22       Commission or -- I thought this was a simple or  
23       even post e-mail relationship or a general  
24       question that can be answered.

25                   MS. KARCHER-REAVEY:   You mean about

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1       how to obtain the information.

2                   MR. RENNA:   How to obtain the  
3       information or the example I wrote on my  
4       questionnaire.   The Board of Freeholders has an  
5       agenda meeting on Thursday night that sets the  
6       agenda meeting for the next Thursday.   So  
7       Friday, I request the minutes from that meeting  
8       and they told us it takes them seven working  
9       days to finalize the minutes.   Seven working  
10      days is past the next Thursday's meeting.  
11      There was no recourse.   I have nothing to stand  
12      on to demand it, but where would I go from  
13      there.   And that could be almost on a daily  
14      basis with every question that I asked, it is  
15      not available.

16                   One of the first requests that I  
17      made was for a contract and the proposal from  
18      Xerox to privatize the print shop.   When

19       they -- when my wife asked for the contract to  
20       review it and the proposal from Xerox, they  
21       said, well, it's being passed around. It's  
22       working out a little bit. We don't have it  
23       handy. And we tried two times before, we did  
24       call your office, and maybe someone called  
25       them, and they kind of snapped to it. They did

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1       give us the contract, but not the proposal.  
2       And I thought through the lecture that once the  
3       contract is signed, it becomes public  
4       information, that it's not protected of some  
5       commercial protection. I don't know if that's  
6       true or not. And just that question I know who  
7       to ask that to.

8               If I should do another phone call  
9       to the Commission, if I asked the County,  
10       they're going to say, well, it's just  
11       protected, but I don't know if it's protected  
12       or not. So, my suggestion is just an open flow  
13       of information back and forth, and even a  
14       casual or e-mail basis.

15               Basically, that's it. I have 100  
16       questions, but it's not -- this is for

17 testimony for it. These are questions that I  
18 would ask orally to someone who would know.

19 MS. KARCHER-REAVEY: If I  
20 understand what you're saying, you really think  
21 there should be a mechanism that you can invoke  
22 to obtain the information you're trying to get  
23 from a public agency and they're kind of  
24 stonewalling you.

25 MR. RENNA: Kind of, yes.

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1 MS. KARCHER-REAVEY: Thank you. I  
2 guess you've spoken to Mark.

3 MR. RENNA: I haven't spoken to him  
4 since the lecture. But I did leave a message  
5 for him today. Someone told me about today, so  
6 I ran up here. I didn't come prepared.

7 MS. KARCHER-REAVEY: We've done our  
8 best to publicize the fact that we're having  
9 the hearings. But we need your interest  
10 peaked, as you said, by some involvement that  
11 you have in your personal life.

12 MR. RENNA: It should be not that  
13 you have to actively get it. If there is a  
14 meeting, minutes should be posted. We have  
15 tremendous technology in the system set up with



16 the town here and everywhere now on the  
17 internet.

18 MS. KARCHER-REAVEY: Okay.

19 MR. RENNA: That's my interest, and  
20 I think you'll hear a lot from me.

21 MS. KARCHER-REAVEY: That's  
22 certainly very helpful. And as I said, stay,  
23 and if you want to add anything as we go along,  
24 feel free to do that.

25 Does anybody have any comments or

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1 questions?

2 Thank you.

3 MR. RENNA: I have the publications  
4 here also.

5 MS. KARCHER-REAVEY: Thank you.

6 MS. STARGHILL: I would like to  
7 point out that there are some government  
8 records, counsel forms, outside that might be  
9 helpful to you. And I'm sure Mark will make  
10 himself available to you on our breaks and  
11 after the public hearings. Thank you.

12 MS. KARCHER-REAVEY: I am sure that  
13 there are time frames --

14 MR. RENNA: That was my main point.

15 MS. KARCHER-REAVEY: I'm not sure  
16 when that will be. I'm certain there are.

17 MR. RENNA: Information is all time  
18 sensitive. And even the process of the meeting  
19 on Thursday night, requesting Friday, not  
20 getting it Monday, call you Tuesday, and then  
21 it's Wednesday and you're calling them. It's  
22 going to be Thursday. It's a week has gone by  
23 already.

24 MS. KARCHER-REAVEY: You are not  
25 going to know anything more than you did the

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1 week before.

2 MR. RENNA: A lot of the stuff,  
3 it's not their job to pursue this stuff. So  
4 every day really counts. If you miss a weekend  
5 of redoing papers or reading, it really costs.

6 MS. KARCHER-REAVEY: We appreciate  
7 that. Thank you.

8 Next is Ed Barocas.

9 MR. BAROCAS: I thank the Privacy  
10 Study Commission for the opportunity to speak  
11 today. My name is Ed Barocas. I'm Legal  
12 Director at the American Civil Liberties Union

13 of New Jersey, a statewide organization with  
14 over 9,500 members.

15 The ACLU is the only organization  
16 in the state dedicated exclusively to the  
17 defense and promotion of civil rights and civil  
18 liberties under the federal and state  
19 constitutions. And I'm here today to speak in  
20 support of providing public access to  
21 government records in a manner that protects  
22 against disclosure of individual's sensitive  
23 private information, including home addresses.

24 Generally, the public should have  
25 access to government records, and the ACLU of

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1 New Jersey fully supports making public  
2 information more accessible. Indeed,  
3 confidence in the government is essential in  
4 our democracy and can best be served by having  
5 the information available to the public so that  
6 they may gain confidence that the system is  
7 working right and above board. In fact, the  
8 ACLU, on numerous occasions, has used FOIA, or  
9 the right to know law, and OPRA, to gain  
10 information to learn about what is going on

11       within the government.

12               However, our state also requires  
13       its citizens to disclose a great deal of  
14       information about their personal affairs, such  
15       information includes our Social Security  
16       Numbers, medical information, financial  
17       information, and home addresses. The  
18       government may well have important interests in  
19       obtaining such information; however, and I'll  
20       quote the United States Supreme Court, "the  
21       right to collect and use such data for public  
22       purposes is typically accompanied by a  
23       concomitant statutory or regulatory duty to  
24       avoid unwarranted disclosures."

25               Therefore, a state, after

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1       collecting such information, must "evidence a  
2       proper concern with, and protection of, the  
3       individual's interest in privacy."

4               Therefore, when we're dealing with  
5       information that individuals reasonably expect  
6       to remain private and that not be published by  
7       the government against their will, the  
8       presumption is that such information is to  
9       remain confidential, unless there is an

10       overriding justification for its disclosure.  
11       And that is, in fact, what the courts have  
12       found as well. And that is what the courts use  
13       to decide whether something should be disclosed  
14       or not. As relates specifically to government  
15       records, such overriding justification for  
16       disclosure doesn't normally exist unless  
17       disclosure of sensitive personal information is  
18       itself necessary to shed light on the  
19       functioning of government. Of course, such  
20       determination needs to be guided by policies,  
21       as no single government official should be able  
22       to have unfettered discretion to determine what  
23       records should or should not be published, or  
24       whether one person's reason for requesting  
25       information is greater than another

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1       individual's.

2               Therefore, after establishing  
3       categories of personal information, for which  
4       the presumption of non-disclosure should apply,  
5       and again, we propose at a minimum, Social  
6       Security Numbers, home addresses, medical  
7       information and financial information, after

8       deciding on those categories, the State should  
9       then identify the records in which the  
10       disclosure of such information is nevertheless  
11       necessary to shed light on the functioning of  
12       government. And I'll give one example, I'll  
13       use financial information. It's not  
14       appropriate to disclose financial information  
15       regarding a private individual, simply because  
16       the State might have obtained it because it was  
17       required on a particular government form.  
18       Nevertheless, it would be appropriate to  
19       disclose the salaries of public employees. So  
20       there you have information that would be found  
21       to have the presumption of confidentiality.  
22       Normally, therefore, records containing  
23       financial information would be confidential,  
24       yet there are exceptions. And the salaries of  
25       public employees goes directly to how the

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1       government functions.

2               With that framework in mind, I'd  
3       like to quickly turn to one particular piece of  
4       private information, that being the home  
5       address. The question of whether the home  
6       address is a type of information for which a

7       presumption of confidentiality should exist has  
8       already been asked and answered by the courts.  
9       Both the New Jersey Supreme Court, in the  
10      particular case of Doe v. Poritz, and the  
11      United States Court of Appeals, in the Third  
12      Circuit, which is the general court that  
13      governs New Jersey. And the particular cases  
14      there are -- well, the particular case there is  
15      Paul v. Verniero and Paul v. Farmer. Both of  
16      those courts in those cases held that since  
17      citizens have a constitutional right to privacy  
18      in their home address. Meaning that the  
19      individual, not the government, should have  
20      control over the dissemination of the home  
21      address, even if the government has the need to  
22      collection that information. As such,  
23      unnecessary disclosures of home addresses would  
24      not only be improper, but would actually  
25      violate their constitutional right to privacy.

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1                   Now, there are many practical  
2       reasons why one would wish to keep his or her  
3       home address confidential. Miss Barber  
4       mentioned one of them. ACLU was contacted by

5 someone who, after being licensed by the State  
6 to be in a particular profession, was aghast  
7 that her name and home address was listed on  
8 the State website. The reason why she was so  
9 concerned was that she had a domestic violence  
10 restraining order against someone. And she  
11 had, in fact, moved where she resided. And I  
12 believe had an unlisted phone number  
13 specifically to make sure that this person  
14 could not find her. And yet, if he knew the  
15 particular profession that she was in, which I  
16 believe she was in prior to this, simply he'd  
17 go to the website and find this information.  
18 And that happens in a number of contexts.  
19 Worse case scenario, as an example, a divorce  
20 case where, for example, individuals who have a  
21 grudge against a particular Judge. In one  
22 point a male came out to the Judge's home.  
23 I've seen the ability of people to use the  
24 internet to do things like that.

25 And going on a more mundane level,

1 people and courts recognize that people simply  
2 have a right not to have unsolicited contact  
3 that they don't desire, that the government



4       should not in fact give out information without  
5       their consent that would result in that.

6               So, as mentioned, however, despite  
7       the strong need for and recognition of the  
8       confidentiality of home address, there are  
9       nevertheless specific records in which the  
10      inclusion of the home address may be necessary  
11      to shed light on the functioning of government.  
12      The best example is voter registration records.  
13      The disclosure of the home address is important  
14      for citizens to ensure against voter fraud.  
15      Make sure that the person voting in a  
16      particular district is in that district.  
17      Likewise, the name and home addresses within  
18      tax assessment records may be required to be  
19      disclosed as they ensure that no particular  
20      person is receiving favorable treatment in such  
21      assessments.

22              The universe of information that  
23      should remain confidential is not extensive, as  
24      noted, the ACLU of New Jersey has identified  
25      four specific types of information that fall in

1       that category; Social Security Numbers, home

2 addresses and medical and financial  
3 information. Likewise, the exceptions to the  
4 presumption of constitutionality for those  
5 categories will be very limited. There will be  
6 specific documents that will be excepted from  
7 that. The ACLU respectfully requests that, in  
8 an effort to ensure that the principles of  
9 openness inherent in OPRA, while maintaining  
10 the proper respect for the sensitive private  
11 information of its citizens, that the State  
12 review and assess which government records that  
13 contain private information should be redacted  
14 and which are appropriate for full public  
15 disclosure because they shed light on  
16 governmental operations and other issues of  
17 public concern.

18 Thank you very much.

19 MS. KARCHER-REAVEY: Does anybody  
20 have any questions or comments?

21 MR. BAROCAS: I have a written copy  
22 with me as well.

23 MS. KARCHER-REAVEY: We'll take  
24 your written statement. Thank you.

25 I don't have any other forms that

1       were filled in. Is there anybody else that  
2       would want to make any comments or statements?  
3       Anybody else?

4                       (A brief recess is then taken from  
5       5:15 p.m. to 5:20 p.m.)

6                       MS. KARCHER-REAVEY: Our next  
7       speaker is Ted Wagner.

8                       MR. WAGNER: My name is Ted Wagner.  
9       I have a quick question. I am attempting to  
10      obtain certain records from my employer  
11      presently. I am in the process of obtaining  
12      records through OPRA. Is it necessary to  
13      specify the code in writing or just a request  
14      for a specific record will suffice?

15                      MS. KARCHER-REAVEY: Are you asking  
16      us?

17                      MR. WAGNER: Yes. I'm lost.

18                      MS. KARCHER-REAVEY: Can you state  
19      that one more time.

20                      MR. WAGNER: When requesting  
21      records under N.J.S.A. 47, is it necessary to  
22      stipulate the N.J.S.A. actual code or just to  
23      request the specific records?

24                      MR. PFEIFFER: Just request the  
25      records.

1                   MR. WAGNER: Thank you very much.

2                   Thank you, Mark.

3                   MS. KARCHER-REAVEY: Having no  
4                   speakers at this time, maybe we'll just take a  
5                   brief break. And as soon as anybody comes in,  
6                   we'll bring it to your attention and we'll come  
7                   back here. Thank you.

8                   (A brief recess is then taken from  
9                   5:20 p.m. to 5:50 p.m.)

10                  MS. KARCHER-REAVEY: We started  
11                  earlier and this is a public hearing hosted by  
12                  the Public Interest Subcommittee of the New  
13                  Jersey Privacy Study Commission and that was  
14                  created by the Open Public Records Act. We're  
15                  inviting all members of the public to comment  
16                  on privacy issues raised by the collection,  
17                  processing, use and dissemination of  
18                  information by public agencies. The  
19                  Subcommittee is most interested -- well, we're  
20                  interested in anything you'd like to comment  
21                  about. But we're very concerned about how you  
22                  feel regarding the release of telephone  
23                  numbers, addresses, home addresses, Social  
24                  Security Numbers. And what we're hoping to do  
25                  is collect the information from these public

1       hearings to reach some kind of balance between  
2       the need for open government and individual's  
3       right to privacy.

4               We're recording the comments that  
5       you are making at the microphone and we're  
6       going to present them to the Commission as part  
7       of its study of all complex issues that are  
8       involved in this area. We're hoping that you  
9       can limit your comments to about five minutes.  
10      And anybody with a prepared statement, we'd  
11      like to get a copy of it, if we could. I know  
12      that there are at least two more.

13              The first one that I have is Bob  
14      Benero.

15              MR. BENERO: My name is Bob Benero.  
16      I live in Westfield. I'm not affiliated with  
17      any particular organization, but I am  
18      interested in the whole issue of privacy and  
19      identity theft. I did go to the State website  
20      on this and I read the law of the Open Records  
21      Law. And I looked at Executive Order 21, which  
22      took out home phone numbers, addresses and  
23      Social Security Numbers. And then I looked at  
24      the Executive Order 26, which seemed to put  
25      back the issues of home phone numbers and

1       telephone numbers and addresses, but it didn't  
2       say anything about Social Security numbers. So  
3       as I read it, I wasn't quite clear in my mind  
4       whether Social Security Numbers were still part  
5       of public records or whether it's still exempt  
6       from public records. So I'd like to hope that  
7       you will clear that up and actually make an  
8       example of it. Because I think something like  
9       Social Security Numbers for identity theft is  
10      really important. When I have to fill out  
11      medical claim forms or dental claim forms, I  
12      have to put my name, address, phone number,  
13      birthday and Social Security Number on the  
14      form. Then I give it to some receptionist, and  
15      who knows what happens to that form sitting on  
16      some desk somewhere. And there's all the  
17      information you need to steal someone's  
18      identity. It's required in all those different  
19      aspects of life. So I don't know if this is  
20      something that we specifically can address the  
21      whole issue of how you identify somebody.  
22      Social Security Numbers are a legitimate way of  
23      identifying someone, or whether there can be  
24      some law that would require some other form of

25       identification, I think is something you should

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1       look at.

2                   The other thing has to do with this  
3       Graham Leach Law (phonetic), which I know is a  
4       federal law, which gives a person a certain  
5       power over their financial information. And I  
6       know you got the privacy notice in the mail,  
7       and most of the time you kind of ignore them.  
8       At least I used to just throw them away. Now I  
9       look at them more closely and actually fill  
10      them out and send them in. And they allow me  
11      to tell my bank not to share my personal  
12      financial information, including specific  
13      transactions with their non-affiliates. And I  
14      can do this. But if I tell them I don't want  
15      you to share my financial information with  
16      anybody, even with the affiliates, I know I  
17      don't have that right under the law. They can  
18      still do that. But the law also allows states  
19      to pass forms of this law. So the State of New  
20      Jersey has passed a law stating that people can  
21      tell their banks, credit organizations, and  
22      credit card companies, the credit bureau, the

23 ones that keep track of your credit, all of  
24 that, what information they can share and what  
25 they can't. I'd like to see a strength in form

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1 of the law in New Jersey.

2 MS. KARCHER-REAVEY: Thank you.

3 Any comments or questions from the  
4 Committee?

5 MS. BARBER: I'll just mention that  
6 there are two bills in the Legislature. It's  
7 Senate Bill 2245 and Assembly Bill 3216, that  
8 would raise the privacy protection above the  
9 floor established by Graham Leach Wiley  
10 (phonetic). They don't seem to actually be  
11 moving in the Legislature, but somebody  
12 introduced those bills, so that's a good thing.

13 MS. KARCHER-REAVEY: Those people  
14 agree with you.

15 MR. PFEIFFER: I can answer the  
16 question about Social Security numbers. Under  
17 State law now, in the Open Public Records Act,  
18 government agencies are supposed to redact  
19 Social Security Numbers on credit card numbers  
20 and driver's license numbers under most  
21 circumstances. A couple circumstances where



22       they are, but they are very narrow and tightly  
23       held.

24                       So as far as government agencies in  
25       New Jersey, passing giving the Social Security

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1       Number, in the event they have it in the first  
2       place, there are very strict limitations on the  
3       situations where they will become disclosed to  
4       anybody.

5                       MS. KARCHER-REAVEY:   Thank you.

6                       And next I have Paul Rothman  
7       (phonetic).  If you'll come to the microphone,  
8       please.

9                       MR. ROTHMAN:  I'd like to say my  
10       name is Paul Rothman.  I do believe that  
11       privacy is an important issue and that when we  
12       give our private information to State  
13       government, be it Social Security Number, or  
14       phone number, or address, that we have a right  
15       to expect that information would be held  
16       privately by the government, not be released to  
17       private corporations or any other organizations  
18       or private citizens.  And the Social Security  
19       Number, which I believe is the most serious of

20 the data types, because of data theft,  
21 personality theft. However, even phone numbers  
22 and addresses are sensitive to some people.  
23 And we should have the right to let us know it  
24 is being released, and possibly have the choice  
25 of releasing it or not releasing it. The also

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1 talked about Graham Leach Wiley, which I  
2 assume, that's the kind of opt out type of  
3 situation where you can opt out your personal  
4 information if you don't want it given out.

5 MS. KARCHER-REAVEY: I'm not sure  
6 of that.

7 MS. BARBER: I want to eat my words  
8 about endorsing any bill in front of the  
9 legislature that's really beyond the purview of  
10 this Privacy Study Commission.

11 But as an aside, yes, Graham Leach  
12 Wiley gives you a chance to opt out of having  
13 information about you shared among media  
14 conglomerates and other corporate entities.

15 MR. ROTHMAN: This is a good step  
16 in the right direction, but I think an opt in,  
17 which is a higher level of security, would be  
18 even better. Then we are told from the get-go

19       that the information is not being given out  
20       unless we give permission to do so, which I  
21       think is a big -- large step, better than opt  
22       out.

23                   MS. KARCHER-REAVEY: That's a good  
24       comment to make and important to our Committee  
25       and our Commission. Anything else?

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1                   MR. ROTHMAN: I think that's about  
2       it.

3                   MS. KARCHER-REAVEY: Any comments  
4       or any questions?

5                   Thank you, sir.

6                   MR. ROTHMAN: Thank you.

7                   MS. KARCHER-REAVEY: At does  
8       anybody want to come back to the microphone to  
9       make any additional comments? Mr. Roberts.

10                  MR. ROBERTS: Two issues, Ma'am.  
11       The situation regarding the driving license  
12       details and the protection of that. While this  
13       legislation assists the person who drives into  
14       your car and you want me to find, I will not be  
15       able to while you prevent me from having access  
16       to his driver's license number, to his Social

17 Security Number, and to other critical  
18 identifiers. Just think of how many people are  
19 called John Smith. If John Smith is suspected  
20 of breaking into your house or assaulting your  
21 children, how am I, or indeed law enforcement  
22 agencies, going to locate John Smith in New  
23 Jersey without a specific identifier. Hence,  
24 my respectful request that any such stipulation  
25 that restricts access to that information be

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1 excepted for the persons of licensed private  
2 investigators and their professional remit.

3 On the issue of privacy and  
4 emanating from the United Kingdom, there was  
5 recently in the last few years, a European  
6 Directive, on the Commission on Privacy, which  
7 in the United Kingdom is the Data Protection  
8 Act of 1998 as amended. I believe it was  
9 finalized in May or April of 2000. The Data  
10 Protection Act is a separate section. It is  
11 designed to control the release of information.  
12 It is designed to specify to whom that  
13 information can be given. It is designed to  
14 indicate how this information should be treated  
15 and how it can be released. It allows for a

16 Data Commissioner for the United Kingdom who  
17 has the authority to prosecute any breaches of  
18 the Data Protection Act. It allows individuals  
19 who have been subject to information release by  
20 the Data Protection Act to garner information  
21 as to who has made inquiries about them and for  
22 what reason, under certain circumstances. It  
23 also provides, particularly from the  
24 prospective of the private investigator, a Data  
25 Controller and a Data Processor.

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1 And to put that in context, the  
2 Data Controller would be someone like myself,  
3 stating who came to me who wanted to find out  
4 information about John Smith. He lives in  
5 southern New Jersey. I'm based in northern New  
6 Jersey. I would contact a licensed private  
7 investigator in southern New Jersey, and say, I  
8 need information on John Smith. That secondary  
9 investigator then becomes the Data Processor.  
10 He is subject to the same regulations as I am  
11 as the Data Controller. In other words, if  
12 something goes wrong, if what we do is  
13 impeached in some way, legally or otherwise,

14 the person whom we have acquired the  
15 information about has a legal right to redress.  
16 More than that, the Data Commissioner to whom  
17 we are responsible as Data Controller and Data  
18 Processor, also has the right and access to all  
19 files in the office of an investigator who is  
20 licensed under the Data Protection Act, as it  
21 is in the United Kingdom. Bearing in mind,  
22 they do not yet have licensing for private  
23 investigators.

24 On that basis, I could anticipate  
25 and foresee a means whereby that legislation

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1 has prevailed throughout Europe, could be  
2 brought back into the environment, such as New  
3 Jersey here, and hold specifically to this  
4 State's needs and adopt it into law with good  
5 effect. I think there have been many trials  
6 and tests of the Data Protection Act. It's  
7 more than just in its infancy. It was  
8 formulated into a good piece of legislation  
9 that protects everybody, its government and  
10 public alike.

11 Thank you.

12 MS. KARCHER-REAVEY: Thank you.

13                   Anybody else? We're definitely  
14                   staying until 7:00, just so we're clear on that

15                   MR. ROTHMAN: Under those  
16                   circumstances, in England, would the person who  
17                   is being investigated by the private  
18                   investigator, would they be notified their  
19                   numbers are being given out? Would the person  
20                   who is being investigated by the investigator  
21                   be notified their personal data had been given  
22                   out?

23                   MR. ROBERTS: They wouldn't until  
24                   such time as -- because you had applied for a  
25                   job to which you are entitled to, if you lied

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1                   about something and an investigator had  
2                   determined that fact, they would then not be  
3                   entitled to know until such time as, why didn't  
4                   you give me the job. And we investigated your  
5                   background and we found A, B, C. Who did that?  
6                   Investigator John Smith.

7                   He is then entitled to make  
8                   application for the reports created by John  
9                   Smith, through the Office of the Data  
10                   Commissioner. This is not giving John Smith

11 private investigator's private address away.  
12 But the Commissioner will enforce production of  
13 those documents, if there is anything wrong  
14 with said individual who hasn't got the  
15 position of employment, for instance, would  
16 have legal redress.

17 MR. ROTHMAN: Where would the harm  
18 be in notifying the person up front?

19 MR. ROBERTS: If I was  
20 investigating you for, shall we say a suspicion  
21 of employee theft, what advantage would there  
22 be, at a federal level, if I come to you and  
23 say I'm going to investigate you for employee  
24 theft?

25 MR. ROTHMAN: Because the authority

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1 would be informing me, not you yourself.  
2 They're giving you information about me.

3 MR. ROBERTS: After the event, not  
4 before the event. In this country now, I  
5 believe that there is legislation that is being  
6 reviewed with the view to be changed to the  
7 effect that as investigators are engaged as  
8 outside investigators on behalf of commerce,  
9 that the employer must notify the employees



10       that they are going to be investigated, which  
11       is abject nonsense. I'm telling a thief I'm  
12       going to look into what he's doing.

13               So, they now try -- they realize  
14       the error of their way, pardon -- in the sense,  
15       and they are going to change that law not to  
16       tell the thief that they're being investigated  
17       by an outside agency. I think that's more or  
18       less correct.

19               MR. ROTHMAN: When the authorities  
20       come into someone's home, they have to get a  
21       Judge's permission and show you a warrant  
22       before they go in. Wouldn't advance of  
23       notification of information being given out be  
24       equivalent to that? Want it be on the same  
25       level?

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1               MR. ROBERTS: There is no  
2       communication. There is no judicial process in  
3       respect of the issuance of a lane of  
4       information sufficient to grant a warrant.

5               MS. KARCHER-REAVEY: So I'm clear,  
6       your kind of equating it to --

7               MR. ROTHMAN: They are both forms

8 of privacy.

9 MS. KARCHER-REAVEY: Just an  
10 invasion of your privacy to have an  
11 investigator have available to that person.

12 MR. ROTHMAN: The personal  
13 information, yes. For example, what is to  
14 prevent a person whose is involved in  
15 personality theft from getting licenses from  
16 the private investigator?

17 MS. KARCHER-REAVEY: I don't mean  
18 to interrupt, but the purpose of this  
19 Commission is not in the United Kingdom. I  
20 think that what the Commission is probably  
21 hearing in these public hearings is the purpose  
22 for which the information is sought is very  
23 important. And the reason why a licensed  
24 investigator, they are very strict about  
25 licensing private investigators, professional

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1 investigators.

2 MR. ROTHMAN: True.

3 MS. KARCHER-REAVEY: The purpose  
4 for which you seek it is relevant.

5 MR. ROTHMAN: In a similar way, the  
6 police forces, armed forces, before they become

7 involved, and they still need a warrant to go  
8 into your home.

9 MS. KARCHER-REAVEY: I think that's  
10 a very different situation when they are  
11 invading the privacy of your domicile. There  
12 is a lot of case law about this.

13 MR. ROTHMAN: Thank you.

14 MR. WAGNER: Were you just saying  
15 that there are sometimes certain reasons that  
16 are more important than others that people can  
17 give for giving the information or receiving  
18 the information? I'm not sure.

19 MS. KARCHER-REAVEY: I think that's  
20 what the impression we're getting from the  
21 public, that it does make a difference. That's  
22 all I'm saying.

23 MR. WAGNER: My concern with that  
24 is that we not give government officials the  
25 authority to say your reason for wanting this

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1 information is more important than his reason  
2 for wanting it. Therefore, I'm not going to  
3 give it to you, but I will give it to him. I  
4 understand I'm categorizing.

5 MS. KARCHER-REAVEY: Do you think  
6 it's appropriate to say, well, what is your  
7 reason for wanting this information?

8 MR. WAGNER: No, I don't. I do  
9 not.

10 It's very funny. The other night I  
11 was just watching a movie, The Pelican Brief,  
12 with Julia Roberts. She's investigating the  
13 murder of two government officials. And she  
14 somehow linked it to particular companies that  
15 may have some ins with the government. And she  
16 wants to go find out corporate records  
17 regarding it. She walked up to the court clerk  
18 and she says, I would like records regarding X  
19 and Y company. And the woman says, well, why  
20 do you want them. And she says, it's a public  
21 record, isn't it. Why do I have to explain to  
22 you why I want this?

23 The fact is she wanted to remain  
24 anonymous because she was concerned about who  
25 she was investigating and that they would know

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1 that she was investigating them. And in fact,  
2 when this government -- some people don't want  
3 the government to know that they want to know

4       what the government is doing. And if it is a  
5       public -- that's why it's important thing is to  
6       determine what is public and what is not  
7       public, rather than saying we're going to have  
8       a sliding scale, where certain things will be  
9       public if you give a good enough reason.

10      That's why I wanted to make that statement.

11      That's not the case.

12                 MS. KARCHER-REAVEY: That's very  
13      helpful.

14                 MS. BARBER: As understand your  
15      testimony, your preface was that when in doubt,  
16      the information should be disclosed as part of  
17      a public record.

18                 MR. WAGNER: That's correct.

19                 MS. BARBER: With four exceptions,  
20      the Social Security Number, home addresses,  
21      medical information and financial information.

22                 MR. WAGNER: Correct.

23                 MS. BARBER: Now, those four  
24      categories of information would, according to  
25      you scheme, be presumed confidential and would

1       not be disclosed, except in a couple of narrow

2       circumstances, like voter registration. And  
3       what was it? Tax assessment records.

4               MR. WAGNER: There may be others.  
5       There may be more than four than what I thought  
6       of. But the idea is. I chose those four  
7       because the courts have specifically said that  
8       this is information that people have a  
9       constitutional right to privacy.

10              MS. BARBER: My question is, you  
11       were talking about this, a balancing test, or  
12       inquiring into the reasons for requesting the  
13       records. And I take it that your position  
14       would be that by in large, overall, for public  
15       records, the government should not inquire into  
16       who are you and why do you want to look in the  
17       records. Available to the public no questions  
18       asked.

19              But where are you for your four  
20       categories; Social Security Numbers? Would it  
21       then be appropriate with respect to Social  
22       Security Numbers, say? Would it be appropriate  
23       under, respect to that category, that a  
24       government official could say, tell us why you  
25       need this information and what you're going to

1 use it for, and then engage in a balancing test  
2 weighing the interest in disclosure versus the  
3 interest in privacy?

4 MR. WAGNER: No. In fact, it's  
5 even more important that you not get involved  
6 in what is your particular interest. Again,  
7 getting into the situation of, well, one person  
8 may want -- we were talking about, off the  
9 record, about dog licenses and the home  
10 addresses are included in them. One person may  
11 want a record that may want to do a story on  
12 Pit Bulls. Another person may want it because  
13 they want to sell them dog food. Another  
14 person may want it because he is inherently  
15 interested in dogs. Another person may want it  
16 just to harass their neighbor. The government  
17 is not in the best -- simply put, the  
18 government compels us to give this information,  
19 and they are not the ones to make that  
20 determination on what's a good enough reason.  
21 We don't like their reasons, but we like yours.  
22 Not only is it unfair, but it's just  
23 unworkable.

24 What is a better way to do it, is  
25 to say with those four categories, not what are

1       the reasons on a case by case basis, but  
2       rather, what particular records that contain  
3       that information really should be public  
4       anyway. And so the home address, or whatever,  
5       financial information, if there's a particular  
6       public record that it is so important in the  
7       public interest, that that very information  
8       itself be made public, that that record should  
9       be public with that information.

10               And in this instance, I designated  
11       or I -- explained two instances, voter logs and  
12       tax assessment records. Both are in the public  
13       interest. It is in the public interest that  
14       that information itself, the home address  
15       issue, be disclosed. Or there is a third one I  
16       said, employees salaries. There is a third  
17       instance where the information itself would  
18       normally be private. It is essential to  
19       understand what's going on in government.

20               So I guess in the short answer to  
21       your question is, no, it should not be done on  
22       a case-by-case basis. It should be done on a  
23       type of record versus other types of records  
24       basis.

25               MS. BARBER: And the reason for



1       requesting the record should be irrelevant?

2               MR. WAGNER: Yes. Because either  
3       something is public or it is not. It should  
4       not go to the nature of information itself and  
5       not to the nature of the person considering it.  
6       If something is public, it is public. If it is  
7       private, it is private.

8               MS. BARBER: Okay. Thank you.

9               MS. KARCHER-REAVEY: Thank you.

10              We'll take a break.

11              (A brief recess is then taken at  
12       6:15 p.m. to 6:45 p.m.)

13              MS. KARCHER-REAVEY: Our next  
14       speaker is Vincent Lehotsky. Can we have your  
15       name and address.

16              MR. LEHOTSKY: My name is Vincent  
17       Lehotsky, Knapp Drive (phonetic), Rahway, New  
18       Jersey.

19              One of the things that bothered me  
20       about, maybe it was related, maybe it's not.  
21       There is a lot of good things about the Open  
22       Public Records Act. And that's why I thought I  
23       would come to this meeting to clarify some  
24       things for the future.

25              For instance, yesterday's Star

1       Ledger, Monday, June 16 advertisement for a  
2       public notice, whether the Board has anything  
3       to do with this. There is a legal notice that  
4       says the regular commissioner -- start all  
5       over. The regular meeting of the board of  
6       commissioners that was to be held on June 17,  
7       2003 has been rescheduled for Wednesday, June  
8       18, 2003 at the regular time. It doesn't say  
9       who, what town, what Board of Commissioners and  
10      anything. And this is a legal notice. And in  
11      all reality in the State of New Jersey, as far  
12      as I have no clue where this meeting is to be  
13      held and what time. This is perfectly legal in  
14      the State of New Jersey. And I see this a lot  
15      of times. So if I wanted to go to this  
16      meeting, I don't know where it is, I don't.  
17      But the State of New Jersey permits it.

18               Now, I deal a lot with Union  
19      County. And this wasn't everything. A lot to  
20      do with public information that, at the last  
21      meeting of the year, Union County Freeholders,  
22      after emptying bank accounts and emptying  
23      accounts that were never used or all the monies  
24      were never depleted, they put it all together

25       and salaries for the pay raises. I've been

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1       going to freeholder meetings for ten years, so  
2       I know the process. They're just getting ready  
3       for the big pay raises right before Christmas  
4       that take effect on Christmas Day. If I were  
5       to ask for the freeholders pay raises and also  
6       the Executive Director of the Union County  
7       Improvement Authority, who is also the head of  
8       the Union County Democratic Party, all I will  
9       get when requesting the public information is  
10      just who they are, their job title, and how  
11      much the new pay salary will be. However, when  
12      I requested the 140 job positions for the  
13      various County employees, I got roughly -- I  
14      got their name, I got their job title, if they  
15      got a promotion, the salary, I posted that all.  
16      However, the one thing that I also got was  
17      their Social Security Number. This, no one  
18      should be given. I have about 132 people mad  
19      at me because I have their Social Security  
20      Numbers. I told them better me than somebody  
21      who is going to use this, along with your name  
22      and everything else. But I'm not going to

23       recite any Social Security Numbers.  However,  
24       this is the Director or Personnel Labor,  
25       earning 96,000 a year.  However, this is his

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1       number.  This should be part of the information  
2       that is not to be disclosed.  But the party  
3       leaders, the government leaders, will hide  
4       their information and give away all the little  
5       people's.

6                Another problem, and now I've tried  
7       and I tried and I tried to get this off public  
8       information is the Witness Protection Program  
9       locations.  I could go to through my Union  
10      County vouchers and check registers, and I've  
11      gotten used to it.  I know where the sites are,  
12      but I don't brag about them, and I am not going  
13      to tell the Board where they are.  However, I  
14      tried to get my freeholder board to remove  
15      those expenses from the public information.  I  
16      need my witnesses, who are part of the Witness  
17      Protection Program to be protected, not to be  
18      given away.  However, some do have special  
19      eating habits and all fine, if that shows up.  
20      But I don't need to know where they are staying  
21      or their names.  So I try with the Freeholder

22 Board, nothing. I tried with the head of the  
23 Democratic Party, because it's a nine member  
24 Democrat Party Freeholder Board here in Union  
25 County, nothing. So then I go to this site of

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1 the Witness Protection. It's a hotel and I say  
2 isn't this where the Union County Witness  
3 Protection Program is, and the clerk behind the  
4 desk says, yes, it is. I can just see a bunch  
5 of witnesses one day being offed somehow or  
6 another, and a bunch of court cases being  
7 dismissed because there's nobody around.

8 So, that would be a recommendation  
9 that, yes, there are a lot of things that  
10 should be made part of public record, however,  
11 as much as I can visit the County and four  
12 towns in one single day last week, Friday the  
13 13th, was an unlucky day for five clerks,  
14 because I visited. Fine. I go for public  
15 information and I see a lot of what should not  
16 be made available.

17 Not to drag things on, but there's  
18 another problem. I requested information back  
19 on June 2nd from Union County, and I'm still

20 waiting for it. Now, sometimes there's --

21 MS. KARCHER-REAVEY: Is that a  
22 request from the County itself?

23 MR. LEHOTSKY: Yes. I requested  
24 from Union County Public Information. There's  
25 seven days or eight days. I try to be lenient

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1 with the girls. I know there's other people in  
2 the State that aren't. I don't mind. But I'm  
3 waiting and sometimes there is a bulk of  
4 information. However, to be waiting going on  
5 for the third week, there's got to be a  
6 problem.

7 One thing I know that there is  
8 charges in the future where such an entity can  
9 charge monetary fees, however, when I used to  
10 go to the County, I would receive the hard copy  
11 voucher of what the bill actually was. Now, if  
12 you go through the process of photo copying it,  
13 redacting things, obviously I know what they  
14 are, but they redact things and then they  
15 photocopy that. They get the hard copy, which  
16 I used to be able to see, and then they make a  
17 photocopy. They cross things out, and then  
18 they make another photocopy. And I'm just

19       afraid I'm going to have to be charged for a  
20       lot of extra work that -- if I'm asking for  
21       voucher on dairy products, there is no reason  
22       to cross things out. However, with a lawsuit,  
23       I can see where a court case, they do cross  
24       things out. However, when they vote on a  
25       resolution at a Freeholder meeting, there is

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1       the names of the defendants and the complainant  
2       and everybody else within the resolution which  
3       is easy to track. Well, at least for someone  
4       like me.

5                   And then I have other problems  
6       where sometimes public information just gets  
7       tossed and you can come up with people's  
8       personal records. This is from Union County,  
9       the Welfare Office. And one time I pulled out  
10      a note suggesting from the Director, Charles  
11      Gillon, G-i-l-l-o-n, that his office was not  
12      meeting their recycling needs. They don't  
13      shred these. I know it's a solid waste issue.  
14      And however, I have the department of  
15      Corrections. I got his name and I got  
16      everything else. I really don't look at these,

17       because when I'm done here, it's all going to  
18       get shredded. And I get their personal ID, the  
19       photocopies of their passports, and these  
20       people don't care about anyone. And it all  
21       goes in the garbage, against New Jersey State  
22       Recycling Laws. And the taxpayers pay for it  
23       to be burned at the garbage burning incinerator  
24       in Rahway.

25                       And it's just that I was hoping

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1       that that type of public information stops  
2       where they're directed how to handle public  
3       information that is no longer needed. And  
4       instead of just taking this public information,  
5       that is sensitive as well, and discarding it in  
6       the trash, maybe there's supposed to do maybe  
7       be mandated or reminded to do what they're  
8       supposed to do with it. Because they have made  
9       the laws in the County of Union and they break  
10       them.

11                      And as Freeholder Dan Sullivan said  
12       at a Freeholder meeting, like Congress, we  
13       don't obey the laws we pass. He regretted that  
14       there was one person in the room that heard  
15       that. And I posted that on the internet.



16                   So just looking for some  
17           improvements on it. I just feel that if I'm  
18           going to be paying for their services to  
19           photocopy documents, that they don't abuse it,  
20           seeking to discourage me in the future from  
21           asking. Because now I'm going on 12 or 13  
22           working days requesting. I'm kind of lenient.  
23           If it takes nine days to get public  
24           information, I won't mind because I understand  
25           the situation. However, there may be somebody

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1           looking to make a buck and thinking that maybe  
2           he can get a clerk at the Board to renege, not  
3           be able to pass whatever information. And we  
4           got some mighty good clerks that are pressed  
5           with other issues as well.

6                   So, whatever. There is information  
7           that should be withheld, information to be  
8           given out, and I don't know what else to be  
9           given out. I get everything. Union County is  
10          easy to get information. I got people's  
11          passports. Well, it's photocopies that I  
12          shouldn't have. And that is also Social  
13          Security Numbers that I shouldn't have. So

14       there should be maybe new directives. I don't  
15       know.

16                   MS. KARCHER-REAVEY: Your  
17       information is very interesting. And we thank  
18       you for coming.

19                   Does anybody have any questions or  
20       comments?

21                   MR. LEHOTSKY: There's actually  
22       more of this.

23                   MS. KARCHER-REAVEY: We haven't got  
24       a shredder here, but I accept your  
25       representation that you are going to do that.

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1                   MR. LEHOTSKY: I have a shredder  
2       and this will be shredded and it will be  
3       recycled at the recycling center in Elizabeth.  
4       I prefer to go there. But I didn't -- when I  
5       heard that there was going to be a meeting, I'm  
6       going to hold onto something.

7                   So that's about it. And the girls  
8       at Union County do work hard and I just wanted  
9       to say something nice about them.

10                   MS. KARCHER-REAVEY: They do work  
11       hard.

12                   MR. LEHOTSKY: Because of me, they

13 do work hard.

14 MS. KARCHER-REAVEY: And if we're  
15 going to have additional public hearings,  
16 you're more than welcome to come. You missed  
17 the other speakers, but they weren't too far  
18 off from what you had to say either. Thank  
19 you.

20 MR. LEHOTSKY: I go to hundreds of  
21 meetings and usually I hear people with  
22 complaints. And I try to sometimes say there  
23 are good things that they do out there and to  
24 bring that up too. Thank you.

25 MS. KARCHER-REAVEY: Thank you.

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1 MR. LEHOTSKY: You have my  
2 information. Let me know what's for in the  
3 future.

4 MS. KARCHER-REAVEY: We'll try and  
5 do that, yeah. And we have your hotmail.

6 MS. STARGHILL: Be sure to pick up  
7 a copy of the Powerpoint presentation.

8 MR. LEHOTSKY: One thing about all  
9 of this. When I spoke to a newspaper reporter,  
10 I told them the truth, why I do this. And he

11       said, you can't say that because then nobody  
12       will believe you or take you seriously. But I  
13       do this for fun.

14               And actually, in the end, I may  
15       have saved just a couple of thousand bucks.  
16       Well, now the Freeholders are cutting down on  
17       their expenses with the League of  
18       Municipalities. I found out that we pay for  
19       beer, which we shouldn't. I'm telling people  
20       that if they're going to be going out on  
21       business lunch and the tip is from the goodness  
22       of their heart. And just the former Freeholder  
23       of mine who is now an Assemblywoman from  
24       Fanwood, gave out a \$65 tip at a 300 and  
25       something dollar meal at an Italian restaurant.

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1       The tip is from the goodness of her heart, not  
2       from the taxpayers' pocket or wallet. And I  
3       found this out through the Open Public Records  
4       Act.

5               And I thank you.

6               MS. KARCHER-REAVEY: We thank you.

7               It is 7:00, so I think we may as  
8       well not go off the record. We'll close the  
9       hearing and hope that we have more informative

10       hearings like this in the future.

11                       Thank you.

12                       (Whereupon this proceeding was  
13       concluded at 7:00 p.m.)

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1                       C E R T I F I C A T E

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3               I, BRENDA J. RISSMEYER, a Certified  
4       Shorthand Reporter and a Notary Public of the  
5       State of New Jersey, do hereby certify the  
6       foregoing to be a true and accurate transcript  
7       of my original stenographic notes taken at the

8           time and place hereinbefore set forth.

9

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BRENDA J. RISSMEYER, CSR

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16           Dated:   July 7 , 2003

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